UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/840,097	05/06/2004	Kadir Ozdemir	40101/00702	7306

7590 01/29/2007	EXAMINER
Fay Kaplun & Marcin, LLP Suite 702 150 Broadway New York, NY 10038	THAI, TUAN V

ART UNIT	PAPER NUMBER
2186	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/29/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *06 May 2004*.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *21-40* is/are pending in the application.

    4a) Of the above claim(s) *1-20* is/are withdrawn from consideration.

5)☒ Claim(s) *21-34* is/are allowed.

6)☒ Claim(s) *21-40* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *06 May 2004* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

       1.☐ Certified copies of the priority documents have been received.

       2.☐ Certified copies of the priority documents have been received in Application No. _____.

       3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

Part III   DETAILED ACTION

Specification

1.   This application is a continuation of application 09/728,168

filed December 01, 2000; now U.S. Patent 6,760,826. Claim 1 has

been canceled. Claims 21-34 are presented for examination.

Double Patenting

2.   The non-statutory double patenting rejection, whether of the

obviousness-type or non-obviousness-type, is based on a

judicially created doctrine grounded in public policy (a policy

reflected in the statute) so as to prevent the unjustified or

improper timewise extension of the "right to exclude" granted by

a patent. *In re Thorington,* 418 F.2d 528, 163 USPQ 644 (CCPA

1969); *In re Vogel,* 422 F.2d 438, 164 USPQ 619 (CCPA 1970); *In re*

Van Ornum, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Longi,*

759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); and *In re Goodman,*

29 USPQ2d 2010 (Fed. Cir. 1993).

    A timely filed terminal disclaimer in compliance with 37
CFR 1.321(b) and (c) may be used to overcome an actual or
provisional rejection based on a non-statutory double patenting
ground provided the conflicting application or patent is shown to
be commonly owned with this application. See 37 CFR 1.78(d).
    Effective January 1, 1994, a registered attorney or agent of
record may sign a terminal disclaimer. A terminal disclaimer
signed by the assignee must fully comply with 37 CFR 3.73(b).

3.   Claims 21-34 are rejected under the judicially created
doctrine of obviousness-type double patenting as being
unpatentable over claims 1-16 of U.S. Patent No. 6,760,826 since
the claims, if allowed, would improperly extend the "right to
exclude" already granted in the patent.

The subject matter claimed in the instant application is
fully disclosed in the patent and is covered by the patent since
the patent and the application are claiming common subject
matter, as follows: the wording of the instant claims are
slightly broader and claimed the same invention in their new
form in other instances as being compared to the limitations of
the original claims. Examples are: Claims 21, 27 and 35 of the
current application are obvious slight variation of claims 1, 2,
8 and 11 of patent 6,760,826. The claims are not patentably
distinct from each other because the claims are directed to the
same invention of method and system for managing a memory in a
computer system by defining chunks of the memory, wherein each
chunk is a continuous memory space of a predetermined size.
Defining chunk pools for managing the chunks, wherein each chunk
pool corresponds to chunks of a particular size and defining
unit pools for managing units of the first size, wherein the
chunk pool corresponding to the unit pool provides a chunk of
the particular size to be separated into the units of the first
size, and the data of the first size is stored in the units.

Allowable subject matters

4.   Claims 21 and 27 are allowable. The prior arts of record do not teach nor disclose all the combined limitation in the claims (claims 21 and 27 as being claimed) wherein a system and method for managing a memory in a computer system by defining a first memory chunk of system memory wherein the first memory chunk being a continuous memory space of a first predetermined size; dividing the first memory chunk into a second memory chunk and a third memory chunk; assigning control of the second and third memory chunks to a chunk pool; transferring control of the second memory chunk from the chunk pool to a unit pool; separating the second memory chunk into units of a second predetermined size; and storing data of the second predetermined size in the units. Claims 22-26 and 28-34 are also allowable since they are dependent upon the indicated allowable claims 21 and 27.

Claim Rejections - 35 USC § 102

5.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e)   the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent

by another filed in the United States before the invention
by the applicant for patent, except that an international
application filed under the treaty defined in section 351(a)
shall have the effects for purposes of this subsection of an
application filed in the United States only if the
international application designated the United States and
was published under Article 21(2) of such treaty in the
English language.

6.   Claims 35-40 are rejected under 35 U.S.C. 102(e) as being

anticipated by Benayon et al. (USPN: 6,249,852); hereinafter

Benayon.

As per claims 35 and 36; the Benayon reference teaches a

memory allocation system that allocates chunks of system memory

wherein each chunk is a continuous memory space of a

predetermined size which are then assigned to chunk pools for

that size by receiving the data, determining the size, assigning

the data, and storing the data (e.g. see column 2, lines 53-54;

column 3, lines 17-19). For example, Benayon teaches that each

chunk is then associated with a unit pool which allocates memory

based on units of a first size (e.g. see column 3, lines 25-38).

Noting that the reference teaches the use of the C function

malloc() and the C++ function new (), thus an input reader is

implied (as are the related operations of "determining a size;

assigning the data ..."). Since data is stored in the various

memory allocations in response to a user request (e.g. see column

3, lines 27-30), a storage unit is also implied (as are the

relating operations of "storing the data..).

As per claims 37-40, the reference of Benayon further
teaches creating new chunks by dividing and joining existing
chunks (e.g. see column 6, lines 49-61), also noting the claimed
hierarchical relationship between chunk pools (6,14a, 4a etc),
chunks (18a, etc.), unit pools (18a, etc.) and units is taught.
Also noting the pointer 58 which points to the contiguous area;
determining the data size greater than the maximum value... (e.g.
see column 3, lines 25 et seq.). Thus, all of Applicant's claims
are anticipated.

Conclusion

7.   The prior art made of record and not relied upon is
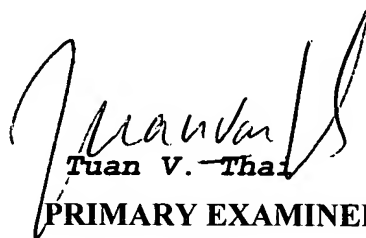considered pertinent to applicant's disclosure.

8.   Any inquiry concerning this communication or earlier
communications from the examiner should be directed to Tuan V.
Thai whose telephone number is (571)-272-41287. The examiner can
normally be reached from 6:30 A.M. to 4:00 P.M.

If attempts to reach the examiner by telephone are
unsuccessful, the examiner's supervisor, Mathew M. Kim can be
reached on (571)-272-4182. The fax phone number for the
organization where this application or proceeding is assigned is
571-273-8300. Information regarding the status of an application
may be obtained from the Patent Application Information Retrieval

(PAIR) system.   Status information for published applications may be obtained from either Private PAIR or Public PAIR.   Status information for unpublished applications is available through Private PAIR only.   For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

TVT/January 06, 2007

Tuan V. Thai

PRIMARY EXAMINER
Group 2100